

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) 1109/2022

Sri Sanjoy Kanti Chanda @ Sanjoy Chanda and 4 ors. ----Petitioner(s)

Versus

The State of Tripura and 3 ors. ----Respondent(s)

For Petitioner(s)	:	Ms. R. Purkayastha, Advocate
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For Respondent(s)	:	Mr. M. Debbarma, Addl. GA
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HON'BLE MR. JUSTICE ARINDAM LODH
Order

03/07/2023

Heard Ms. R. Purkayastha, learned counsel for the petitioners. Also heard Mr. M. Debbarma, learned Additional GA appearing for the respondents-State.

2. The petitioners have claimed regularization of their services under the respondents. It is the case of the petitioners that they were engaged as Casual workers in the Pig Breeding Farm, Kanchanpur in the year 2002 under the respondents. Thereafter, they were absorbed as Permanent Labourers w.e.f. 01.01.2007 under Memorandum dated 24.12.2007 (Annexure A to the writ petition) issued by the Director, Animal Resources Development Department, Government of Tripura, Agartala. From the Order dated 01.01.2016 (Annexure B to the writ petition) issued by the Director, Animal Resources Development Department, Agartala, it is revealed that except the petitioners of the instant writ petition, other similarly situated Permanent Labourers had been regularized to the post of Livestock Farm Worker (Group 'D') w.e.f. 12.08.2014.

3. Ms. R. Purkayastha, learned counsel for the petitioners has submitted that though the petitioners are discharging the same duties and responsibilities as Permanent Labourers, but, their services have not been regularized though they have been serving for the last twenty years. During continuation of their service as Casual workers for the last several years, the petitioners submitted representations to regularize them to the post of Group 'D', but till today their representation has not been addressed to. Hence, the petitioners have filed the present writ petition. Learned counsel has also submitted that services of similarly situated persons have already been regularized.

4. On the other hand, Mr. M. Debbarma, learned Additional GA appearing for the respondents-State referring to their counter affidavit has submitted that the petitioners have not completed 15 years of service including minimum length of service as Permanent Labourers. In para 4 of the counter affidavit, it has been stated that:-

"4. That, in reply to para 1 to 2.5 of the writ petition, I say that the statements made by the writ petitioners are not true at all because of the fact that the promotion has been made who completed 15 years of service as DRW/Casual Workers including minimum length of service as PL for seven years to the post of Livestock Farm Workers as on 30.10.2015 but the petitioners have not completed 15 years of service as DRW/ Permanent Labourer at the time of promotion.

Service details of the petitioners are described hereinbelow:

Sl.No.	Name of the Petitioners	Date of engagement under ARDD a DRW/Casual Worker	Date of joining as a PL under ARDD	Service period in the time of date of engagement to 12/08/2014
1	Sri Sanjoy Kanti Chanda	13/08/2002	01/01/2007	11 years 11 months
2	Smt. Bhanubati Reang	26/08/2002	01/01/2007	11 years 11 months 18 days
3	Sri Nilkumar Chakma	02/10/2003	01/01/2007	10 years 10 months 12 days
4	Sri Makhan Nath	04/12/2002	01/01/2007	11 years 8 months 11 days
5	Sri Raju Kanti Barua	26/08/2002	01/01/2007	11 years 11 months 18 days

Since the petitioners have not completed 15 years of service including minimum length of service as PL for seven years and therefore, they do not come under the purview of the memo issued by the Finance Department, Govt. of Tripura vide No. F.10(2)-FIN(G)/2008, dated 12.08.2014 which provides for reduction of minimum length of service required for regularization of Permanent Labourer in the post of Farm Worker.”

Mr. Debbarma, learned Additional GA has also submitted that under Memorandum dated 13.11.2019 (Annexure R-2 to the counter affidavit) issued by the Finance Department, Government of Tripura, the policy decision taken by the Government of Tripura for regularization of services of Permanent Labourer in the post of Farm Worker vide Memorandum dated 12.08.2014, has been repealed.

5. I have considered the submissions of learned counsel appearing for the parties.

6. From the Memorandum dated 12.08.2014 issued by the Finance Department, Government of Tripura, it is seen that regularization of Permanent Labourers in the post of Farm Workers had been reduced from ten years to seven years.

7. The petitioners had joined their services in the year 2002 as Casual Labourers, and subsequently they were absorbed as Permanent Labourers w.e.f. 01.01.2007 vide Memorandum dated 24.12.2007, but their services have not been regularized vide Memo dated 01.01.2016 with other similarly situated persons for the reason that they have not completed 15 years of service as DRW/Casual worker including minimum length of service as Permanent Labourers for 7 years.

8. From the Memorandum dated 13.11.2019 issued by the Finance Department, Government of Tripura, it is evident that the Government of Tripura with a view to ensure transparent public employment policy for engagement of staff for such services, the Memorandum dated 12.08.2014 and any other Memos on the same subject have been repealed.

9. Vide Memo dated 01.01.2016, the services of the petitioners have not been regularized with other similarly situated persons since they have not completed 15 years of continuous service as DRW/Casual including minimum length of service as Permanent Labourers, but, before issuing the Memorandum dated 13.11.2019 repealing the earlier Memorandum dated 12.08.2014, the present petitioners have successfully completed their continuous 15 years of service including the minimum length of 7 (seven) years' service as Permanent Labourers. In the opinion of this court, the petitioners could have been regularized before issuing the said Memo dated 13.11.2019 since they have acquired the requisite criteria for regularization.

10. It is settled proposition of law that regularization or absorption is not a matter of right unless it is considered by the respondents-employer.

11. In view of this, I direct the respondents to consider the regularization of the service of the petitioners as Group 'D' where they are working at present within a period of 3 (three) months from today subject to availability of vacancy in the regular sanctioned posts they

hold. The respondents shall also consider granting of pay scale at the minimum pay of the basic scale of pay at the lowest level prescribed for such post in accordance with law.

With this observation and direction, the instant writ petition stands disposed.

JUDGE

SAIKAT KAR
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by SAIKAT KAR
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